

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

**SEALED/EX PARTE**

UNITED STATES OF AMERICA,	)	
	)	Crim. No. 13-2106 MBB
v.	)	
	)	
	)	
DZHOKHAR TSARNAEV	)	

**SEALED EX PARTE MOTION TO ORDER THE BUREAU OF  
PRISONS TO PROVIDE COPIES OF THE DEFENDANT'S FILES TO DEFENSE  
COUNSEL ON A WEEKLY BASIS**

The Defendant, Dzhokhar Tsarnaev, by counsel, files this *Ex Parte*, Sealed Motion for An Order Compelling the Bureau of Prisons to Provide Copies of the Defendant's BOP files to Defense Counsel on a Weekly Basis.


Defendant Dzhokhar Tsarnaev is a pretrial detainee currently housed at FMC Devens, a facility run by the federal Bureau of Prisons (BOP). As this Court is aware, Mr. Tsarnaev is facing a possible federal capital prosecution, arising out of what has been referred to as the April 15, 2013 "Boston Marathon Bombings." FMC Devens/BOP counsel Les Owens advised defense counsel that FMC Devens can routinely and regularly produce Mr. Tsarnaev's BOP medical file to defense counsel as soon as Mr. Tsarnaev signs a release (counsel anticipates obtaining the necessary release by Wednesday, May 8, 2013). In order to obtain other BOP files – which include daily activity logs, suicide watch logs, psychology data systems files, photographs, commissary file, and the BOP "central file" – counsel must obtain a court order. Thus, counsel seek

an Order compelling BOP to produce all BOP files on a regular basis (weekly) to counsel for Mr. Tsarnaev.<sup>1</sup>

In addition, BOP counsel Les Owens advises that while defense counsel must obtain a release for medical files, and a court order for production of the remaining BOP files, all of these files are freely available to the prosecution, simply upon their request and without a court order. Defense counsel object to this unrestricted, free access to information regarding their client in this potential capital prosecution, and seek a protective order from this court, prohibiting FMC Devens/BOP from providing any files regarding Mr. Tsarnaev, absent an opportunity for defense counsel to object, and following a specific order of this Court directing the production.

This motion is based upon the Fifth, Sixth and Eighth Amendments to the U.S. Constitution, and is filed *ex parte* and under seal in order to protect defense work product.

DATED: May 7, 2013

  
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JUDY CLARKE  
MIRIAM CONRAD  
WILLIAM FICK  
TIMOTHY WATKINS  
Attorneys for Dzhokhar Tsarnaev

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<sup>1</sup> Regular production will aid counsel in monitoring their client's status, medical condition, and potential treatment needs, as well as understanding his adjustment to incarceration.